



Crl.R.C(MD)No.1273 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated: 13.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.1273 of 2022
and
Crl.M.P(MD)No.16097 of 2022

S.P.Manikandan

.. Petitioner / Respondent /Respondent

Vs.

1.Lakshmi

2.Minor M.Muthuraj

.. Respondents/Petitioners/Petitioners

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order passed in Crl.M.P.No.180/2021 in M.C.No.24 of 2021, dated 11.11.2022 on the file of the Family Court, Theni, and set aside the same and allow the above revision.

For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.B.Jeyakumar
for R1



Crl.R.C(MD)No.1273 of 2022

ORDER

WEB COPY

The revision petitioner got marriage with the first respondent on 18.12.2008. After marriage, on 10.07.2010, a male child was born. Thereafter, due to some discard, they separated. Hence, the respondent filed the M.C.No.24 of 2021 on the file of the Family Court, Theni, claiming maintenance of Rs.30,000/- each for herself as well as the child. The Family Court Judge, Theni, vide order dated 11.11.2022, in Cr.M.P.No.180 of 2021 in M.C.No.24 of 2021 granted interim maintenance amount of Rs.8,000/- to the first respondent and Rs.7,000/- to the second respondent.

2. Pending the above maintenance case, the first respondent filed DVOP.No.9 of 2018 before the Additional Mahila Court (Magisterial Level), Theni, claiming various reliefs including maintenance. In the said DVOP.No. 9 of 2018, the trial Court granted the relief of maintenance alone.

3. The grant of maintenance in the MC proceedings is challenged by the husband before this Court in this criminal revision petition. This Court, by order dated 21.12.2022 directed the petitioner to deposit 50% of the amount as ordered by the concerned Court. The petitioner deposited the amount as directed by this Court. Thereafter, the matter was listed for final



hearing. This Court, on 11.07.2023, passed the following order:

WEB COPY

“The revision petitioner is the husband of the first respondent and the first respondent filed DVOP.No.9 of 2018 before the Additional Mahalir Court, Theni, wherein the trial Court granted a sum of Rs.10,000/- per month for maintenance to each the respondents.

2.Aggrieved over the same, the petitioner preferred an appeal before the learned District and Sessions Judge, Theni, to set aside the order passed in DVOP. During the pendency of the said case, the first respondent filed a petition in M.C.No.24 of 2021 seeking monthly maintenance and also a petition in Crl.M.P.No.180 of 2021 for interim maintenance before the Family Court, Theni, in which, the trial Court granted interim maintenance and the same was challenged before this Court by filing this revision.

3.It is settled law as per the Hon'ble Supreme Court, a party is entitled to get maintenance granted either in DVOP or in MC proceedings.

4.At this stage, the learned counsel appearing for the petitioner is directed to file a suitable affidavit regarding the above legal position.”



Crl.R.C(MD)No.1273 of 2022

4. As per the direction of this Court, the first respondent filed an affidavit dated 12.07.2023 before this Court. Paragraph No.7 of the affidavit is reads as follows:

“7. I further submit that in the above circumstances, I prepare to avail the order of the learned Family Court Judge, passed in Crl.M.P.No.180/2021 in M.C.No.24/2021 dated 11.11.2022, I also prepare to avail the order if any will be passed in the main case M.C.No.24/2021 which is pending trial. As I am prepared to avail the benefits in the order passed by the learned Family Court Judge, Theni, I will not claim relief in the order passed in the DVC case No.9/2018. Insofar as maintenance is concerned, as I am struggling for getting maintenance from the year 2018, this Hon'ble Court is pleased to direct the learned Family Court Judge, Theni, to complete the trial within a time frame as fixed by this Hon'ble Court. The petitioner may be directed to deposit the arrears amount in the trial Court and I may be permitted to withdraw the same.”

The learned counsel for the respondents stated that in view of the above affidavit, this revision may be disposed of in accordance with law.

5. Considering the above sequences of events as well as para 7 of the affidavit filed by the first respondent, this Court is inclined to dispose of this criminal revision case with the following directions:

“1. The first respondent, as per the undertaking given in the affidavit, is hereby directed to relinquish the claim over the maintenance in the DVOP.No.9 of 2018 pending on the file of the



WEB COPY



Crl.R.C(MD)No.1273 of 2022

learned Additional Mahila Court (Magisterial Level), Theni,

2. The petitioner is directed to regularly pay the interim maintenance amount as per the order of the Family Court, Theni passed in Cr.M.P.No.180 of 2021 in M.C.No.24 of 2021 dated 11.11.2022 till the disposal of the M.C.No.24 of 2021.

3. The petitioner is further directed to pay the arrears of maintenance amount, if any, without fail. On such deposit, the first respondent is permitted to withdraw the deposited amount.

4. The learned Judge, Family Court, Theni, is directed to decide the issues between the parties on merits, without getting influenced by the order passed by this Court in this revision case and dispose the M.C.No.24 of 2021 within a period of two months from the date of receipt of a copy of this order.”

6. Accordingly, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

13.07.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

PJL

To

The Judge, Family Court, Theni.



WEB COPY



Crl.R.C(MD)No.1273 of 2022

K.K.RAMAKRISHNAN, J.

PJL

**Order made in
Crl.R.C(MD)No.1273 of 2022**

13.07.2023